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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
ALEXANDRIA DIVISION

WAYNE STASSI BROWN

DOCKET NO. 11-CV-912; SEC. P

VERSUS

JUDGE JAMES T. TRIMBLE, JR.

WARDEN, WINN CORRECTIONAL CENTER

MAGISTRATE JUDGE JAMES D. KIRK

REPORT AND RECOMMENDATION

Pro se Petitioner Wayne Stassi Brown filed a petition for writ of habeas corpus pursuant to 28 U.S.C. §2254 on June 15, 2011. Petitioner failed to submit his petition on approved forms and failed to pay the \$5.00 filing fee or submit an application to proceed in forma pauperis (IFP). On June 29, 2011, a memorandum order was issued instructing Petitioner to resubmit the pleading on the proper form and to submit the filing fee or IFP application by July 29, 2011. [Doc. #3] To date, Petitioner has not provided the proper form, fee, or IFP application, and the time for compliance has passed.

Federal Rule of Civil Procedure Rule 41(b) permits dismissal of claims "for failure of the Petitioner to prosecute or to comply with ... any order of court...." The district court also has the inherent authority to dismiss an action *sua sponte*, without motion by a defendant. Link v. Wabash R.R.Co., 370 U.S. 626, 630-31, 82 S.Ct. 1386, 1388-89, 8 L.Ed.2d 734 (1962). "The power to invoke this sanction is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the

calendars of the [d]istrict [c]ourts." McCullough v. Lynaugh, 835 F.2d 1126, 1127 (5th Cir.1988).

Because Petitioner has failed to comply with a court order, **IT IS RECOMMENDED** that his petition be **DISMISSED WITHOUT PREJUDICE** in accordance with the provisions of FRCP Rule 41(b).

Under the provisions of 28 U.S.C. Section 636(b)(1)(C) and Rule 72(b), parties aggrieved by this recommendation have fourteen (14) days from service of this report and recommendation to file specific, written objections with the Clerk of Court. A party may respond to another party's objections within fourteen (14) days after being served with a copy of any objections or response to the district judge at the time of filing.

**Failure to file written objections to the proposed factual findings and/or the proposed legal conclusions reflected in this Report and Recommendation within fourteen (14) days following the date of its service, or within the time frame authorized by Fed.R.Civ.P. 6(b), shall bar an aggrieved party from attacking either the factual findings or the legal conclusions accepted by the District Court, except upon grounds of plain error. See, Douglass v. United Services Automobile Association, 79 F.3d 1415 (5th Cir. 1996).**

Thus done and signed at Alexandria, Louisiana, this 26th day of September, 2011.

  
JAMES D. KIRK  
United States Magistrate Judge